

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

PATTY CUMMINGS,

Plaintiff,

v.

Case No.: 2:20-cv-351-FtM-38NPM

RON DESANTIS,

Defendant.

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OPINION AND ORDER¹

Before the Court is Plaintiff Patty Cummings' Motion for Declaratory Judgment, to Advance Declaratory Judgment Determination, and for Speedy Hearing Pursuant to [Fed. R. Civ. P. 57](#) ([Doc. 18](#)).

Cummings sued Ron DeSantis over executive orders that temporarily shut down her business—two fitness centers—in response to the COVID-19 pandemic. The Complaint seeks injunctive relief, monetary damages, and declaratory judgment.² DeSantis has not yet filed an answer. Cummings now asks the Court to hear and grant her request for declaratory judgment before ruling on any other substantive motions.

[Local Rule 3.01\(g\)](#) requires a moving party to confer with opposing counsel before filing a motion. Certain dispositive motions are exempt from the requirement. Cummings claims her Motion is exempt because it is a motion for judgment on the pleadings. Cummings request for declaratory judgment is indeed exempt from Local Rule 3.01(g),

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² Cummings' request for an injunction was rendered moot when DeSantis allowed fitness centers to reopen.

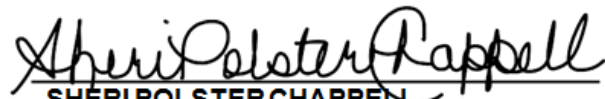
but it is premature because pleadings are not closed. See [FED. R. CIV. P. 12\(c\)](#) (“After the pleadings are closed—but early enough not to delay trial—a party may move for judgment on the pleadings.”). The other relief requested in the Motion is not exempt from [Local Rule 3.01\(g\)](#), and it would be imprudent to consider unusual case-management requests before all parties have appeared.

Accordingly, it is now

ORDERED:

Plaintiff Patty Cummings’ Motion for Declaratory Judgment, to Advance Declaratory Judgment Determination, and for Speedy Hearing Pursuant to [Fed. R. Civ. P. 57](#) ([Doc. 18](#)) is **DENIED**.

DONE and **ORDERED** in Fort Myers, Florida this 1st day of July, 2020.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record